

MARICOPA COUNTY BOARD OF SUPERVISORS MINUTE BOOK

**SPECIAL SESSION
September 10, 2007**

The Board of Supervisors of Maricopa County, Phoenix, Arizona, convened in Special Session at 9:00 a.m., September 10, 2007, in the Tom Sullivan Conference Room, 301 W. Jefferson, Phoenix, Arizona, with the following members present: Fulton Brock, Chairman, District 1; Andrew Kunasek, Vice Chairman, District 3; Don Stapley, District 2 (entered late), Max W. Wilson, District 4 and Mary Rose Wilcox, District 5. Also present: Fran McCarroll, Clerk of the Board; Shirley Million, Minutes Coordinator; David Smith, County Manager; and Victoria Mangiapane, Deputy County Attorney. Votes of the Members will be recorded as follows: aye-no-absent-abstain.

EXECUTIVE SESSION CALLED

Pursuant to A.R.S. §38-431.03, et.al., motion was made by Supervisor Kunasek, seconded by Supervisor Wilcox, and unanimously carried (4-0-1) to recess and reconvene in Executive Session for the purpose of obtaining legal advice from the Board's attorney in reviewing matters listed below, pursuant to the listed statutory references. All members remained in session when the meeting reconvened.

~ Supervisor Stapley entered the meeting ~

LEGAL ADVICE REGARDING AIR QUALITY AND TITLE 49 COMPLIANCE ISSUES AND POSSIBLE BUDGETARY IMPACT; ARS §38-431.03(A)(3)

- E-1.** Legal advice concerning its statutory duties and legal options pursuant to A.R.S. §49-473, related statutes concerning air quality and environmental compliance including statutes in Titles 49 and 48, and budgeting and expenditures related matters.

Tom Irvine, Outside Counsel
David Smith, County Manager
Sandi Wilson, Deputy County Manager
Brian Hushek, Deputy Budget Director
Joy Rich, Assistant County Manager
Bob Kard, Director, Air Quality
Steve Fowers, Deputy Director, Air Quality, **did not attend**
John Powers, Director, Environmental Services, **did not attend**
Bob England, Director, Public Health
Diane Sikokis, Director, Government Relations
Rick Bohan, Government Relations
Lisa Keegan, Interim Communications Director
Chiefs of Staff Latto, Candland, Bloom, Isham, Leija

RECESS EXECUTIVE SESSION AND RECONVENE IN OPEN SESSION

Chairman Brock reconvened open session at 10:10 a.m., continuing in the Tom Sullivan Conference Room, to consider action on the following matter. Notice was given to the waiting press and others of the change in meeting rooms and visitors were summoned to the meeting prior to discussion and the vote.

RESOLUTION REGARDING MAG 2007 FIVE PERCENT PLAN FOR PM10

Item: Approve a Resolution describing Maricopa County's commitment to implement additional measures for the MAG 2007 Five Percent Plan for PM10 for the Maricopa County Nonattainment Area which is due to the Environmental Protection Agency (EPA) by December 31, 2007. Maricopa County may modify funding sources or schedules of implementation actions, if necessary.

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In accordance with A.R.S. 42-17106(B), approve the transfer of revenue authority between Non-Departmental (470), Non-Departmental Grants Fund (249) and the Air Quality Department (850) Air Quality Fund (504). This action will require a revenue appropriation adjustment decreasing the FY 2007-08 Non-Departmental (470), Non-Departmental Grants Fund (249) by \$2,235,633 and increasing the FY 2007-08 Air Quality Department (850) Air Quality Fund (504) by \$2,235,633. This adjustment will result in a County-wide net financial impact of zero and will allow the Air Quality Department to increase its fee revenue to fund a portion of the Dust Control Permit Compliance Measures committed to in the MAG 5% Plan for FY 2007-08.

In accordance with A.R.S. 42-17106(B), approve the transfer of revenue authority between Non-Departmental (470), Non-Departmental Grants Fund (249) and the Air Quality Department (850) Air Quality Fund (504). This action will require a revenue appropriation adjustment decreasing the FY 2007-08 Non-Departmental (470), Non-Departmental Grants Fund (249) by \$127,273 and increasing the FY 2007-08 Air Quality Department (850) Air Quality Fund (504) by \$127,273. This adjustment will result in a County-wide net financial impact of zero and will allow the Air Quality Department to use fund balance to fund the remaining portion of the Dust Control Permit Compliance Measures committed to in the MAG 5% Plan for FY 2007-08.

In accordance with A.R.S. 42-17106(B), approve the transfer of expenditure authority between Non-Departmental (470), General Fund (100) Unreserved Contingency (4711) and the Air Quality Department (850) Air Quality Fund (504). This action will require an expenditure appropriation adjustment decreasing the FY 2007-08 Non-Departmental (470) General Fund (100) Unreserved Contingency (4711) by \$2,235,633 and increasing the FY 2007-08 Air Quality Department (850) Air Quality Fund (504) by \$2,235,633. These adjustments will result in a County-wide net financial impact of zero and will allow the Air Quality Department to fund the Dust Control Permit Compliance Measures committed to in the MAG 5% Plan for FY 2007-08. This includes the addition of 73 FTEs, associated equipment and supplies.

In accordance with A.R.S. 42-17106(B), approve the transfer of expenditure authority between Appropriated Fund balance (480), General Fund (100) Unreserved Contingency (4811) and the Air Quality Department (850) Air Quality Fund (504). This action will require an expenditure appropriation adjustment decreasing the FY 2007-08 Appropriated Fund balance (480), General Fund (100) Unreserved Contingency (4811) by \$127,273 and increasing the FY 2007-08 Air Quality Department (850) Air Quality Fund (504) by \$127,273. This adjustment will result in a County-wide net financial impact of zero and will allow the Air Quality Department to fund a portion of the Dust Control Permit Compliance Measures committed to in the MAG 5% Plan for FY 2007-08 utilizing fund balance.

Also, in accordance with A.R.S. 42-17106(B), approve the transfer of expenditure authority between Appropriated Fund Balance (480) General Fund (100) General Contingency (4811) and the Air Quality Department (850) Air Quality Fund (504). This action will require an expenditure appropriation adjustment decreasing the FY 2007-08 Appropriated Fund Balance (480) General Fund (100) General Contingency (4811) by NTE \$3,224,780 and increasing the FY 2007-08 Air Quality Department (850) Air Quality Fund (504) by NTE \$3,224,780. These adjustments will result in a County-wide net financial impact of zero and will allow the Air Quality Department to use fund balance for one-time training, supplies and services, as well as to increase the vehicle fleet by a not to exceed 50 vehicles based on a usage study of the current Air Quality vehicle fleet.

Also, in accordance with A.R.S.42-17106(B), approve the transfer of expenditure authority between Appropriated Fund Balance (480) General Fund (100) General Contingency (4811) and the Air Quality Department (850) Air Quality Fund (504). This action will require an expenditure appropriation adjustment decreasing the FY 2007-08 Appropriated Fund Balance (480) General Fund (100) General Contingency

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(4811) by \$1,243,087 and increasing the FY 2007-08 Air Quality Department (850) Air Quality Fund (504) by \$1,243,087 through the use of fund balance. These adjustments will result in a County-wide net financial impact of zero and will allow the Air Quality Department to fund the Dust Control Vacant Lot Measures committed in the MAG 5% Plan for FY 2007-08. This includes the addition of 18 FTEs, associated equipment and supplies, as well as increasing the vehicle fleet by a not to exceed 17 vehicles based on a usage study of the current Air Quality vehicle fleet.

Also, pursuant to A.R.S. § 42-17106(b), approve the transfer of revenue and expenditure authority between Non-Departmental (470), Non-Departmental Grants Fund (249) and the Planning and Development Department (440) Planning and Development Fee Fund (226). This action will require a revenue appropriation adjustment decreasing the FY 2007-08 Non-Departmental (470) Non-Departmental Grants Fund (249) by \$680,000 and increasing the FY 2007-08 Planning and Development Department (440) Planning and Development Fee Fund (226) by \$680,000. This action will also require an expenditure appropriation adjustment decreasing the FY 2007-08 Non-Departmental (470), General Fund (100) Unreserved Contingency (4711) by \$100,680 and increasing the FY 2007-08 Planning and Development Department (440) Planning and Development Fee Fund (226) by \$100,680. These adjustments will result in a County-wide net financial impact of zero and will allow the Planning and Development Department to fund 5 FTEs phased in during FY 2007-08 as their commitments to the MAG 5% Plan.

Also, pursuant to A.R.S. § 42-17106(b), approve the transfer of expenditure authority between Appropriated Fund Balance (480) General Fund (100) General Contingency (4811) and the Planning and Development Department (440) Planning and Development Fee Fund (226). This action will require an expenditure appropriation adjustment decreasing the FY 2007-08 Appropriated Fund Balance (480) General Fund (100) General Contingency (4811) by \$92,500 and increasing the FY 2007-08 Planning and Development Department (440) Planning and Development Fee Fund (226) by \$92,500. These adjustments will result in a County-wide net financial impact of zero and will allow the Planning and Development Department to increase their fleet by up to 5 vehicles using fund balance.

Also, direct the Office of Management and Budget to review and recommend annualized target adjustments beginning with the FY 2008-09 budget process. Further administrative staff may be necessary and will be scoped out at a later date. Preliminary indications are that costs may be as much as \$800,000. (8508004600)

Motion was made by Supervisor Stapley and seconded by Supervisor Kunasek to approve the resolution and accompanying requested actions, as given. Supervisor Kunasek said this action is a big step by the County and demonstrates the County's commitment to improving air quality and complying with Environmental Protection Agency (EPA) policies. He recognized the slowdown in construction and building that have already affected the percentages from last year by greatly lessening the tons of dust and particulates being released into the environment. He called upon the EPA to also recognize these differences and give credit where credit is due.

Supervisor Wilcox agreed and said the County is looking at options to achieve compliance financially, not by taking costs only from the General Fund, but in partnering with cities, towns and the State. She said that all residents need to recognize the dangers and help with the huge financial commitment it will take to achieve success.

Supervisor Wilson reported that the current status is just the tip of the iceberg and stressed the importance for all to work together to generate action and funds to enforce the necessary stringent agenda that will lead to cleaner air.

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Supervisor Stapley expressed his support of Bob Kard, County staff and employees, saying that the Air Quality Department has been a leader in the clean-the-air effort throughout the State. He explained that this resolution reflects a giant step in the history of Maricopa County and a giant commitment, but there is still much more work to do.

Chairman Brock remarked that Arizona is in its ninth year of drought and our arid climate presents unique issues that call for a collaborative effort by all citizens because health problems are on the increase and the air we breathe affects everyone. He warned that this effort is a long term effort but assured that it can be won.

Bob Kard thanked the Board for the support given to his department in this fight. He reflected that the air didn't get this dirty overnight and it won't be cleaned up overnight, adding, "We all created it and we all need to be helping to solve it and it can be done if everyone starts contributing." Not only monetary contributions but also man-hours for inspections and follow-up reports need to be provided by every jurisdiction.

Motion for approval of the resolution and related actions to implement additional measures for the MAG 2007 Five Percent Plan for PM₁₀ plan, unanimously carried (5-0).

**RESOLUTION TO IMPLEMENT MEASURES IN THE MAG 2007 FIVE PERCENT PLAN FOR PM₁₀
FOR THE MARICOPA COUNTY, ARIZONA NONATTAINMENT AREA**

WHEREAS, Maricopa Association of Governments (MAG) has been designated by the Governor of Arizona, as the regional air quality planning agency in Maricopa County; and

WHEREAS, the Maricopa County nonattainment area is classified as a Serious Nonattainment Area for PM₁₀ particulate matter according to the Clean Air Act; and

WHEREAS, the Clean Air Act required the Maricopa County nonattainment area to attain the PM₁₀ particulate matter standard by December 31, 2006; and

WHEREAS, the Maricopa County nonattainment area failed to attain the PM₁₀ particulate matter standard by December 31, 2006; and

WHEREAS, due to the Maricopa County nonattainment areas failure to meet the PM₁₀ particulate matter standard MAG as the regional air quality planning agency is required to develop a plan to reduce PM₁₀ emissions by five percent per year until the standard is met ("the Five Percent Plan"); and

WHEREAS, the Five Percent Plan contains commitments by MAG members, including Maricopa County, to implement control measures to reduce PM₁₀ particulate matter emissions; and

WHEREAS, Arizona Revised Statutes 49-406 G. requires that each agency that commits to implement a control measure describe that commitment in a resolution adopted by the governing body which specifies its authority for implementing the measures as provided in statute, ordinance, or rule; a program for enforcement of the measure; and the level of personnel and funding allocated to the implementation of the measure.

NOW, THEREFORE BE IT RESOLVED, as follows:

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SECTION 1. That the BOARD agrees to proceed with a good faith effort to implement the measures identified in Exhibit A, which is part of this resolution.

SECTION 2. That the BOARD commits to implement the measures as scheduled and with the funding sources identified. Recognizing, however, that the availability of necessary funding may depend on the funding programs or processes of various state and federal agencies, Maricopa County agrees to consider modifications of the funding or schedules for implementation actions, if necessary. Maricopa County agrees to submit any modification to the commitments in Exhibit A to EPA for approval as a SIP revision.

DATED this 10th day of September 2007.

/s/ Fulton Brock, Chairman of the Board

ATTEST:

/s/ Fran McCarroll, Clerk of the Board

Exhibit A

MARICOPA COUNTY MEASURES FOR THE MAG 2007 FIVE PERCENT PLAN FOR PM₁₀

Maricopa County Measure 1	MAG Measure 1. Public education and outreach with assistance from local governments
Maricopa County Measure 2	MAG Measure 2. Extensive dust control training program
Maricopa County Measure 3	MAG Measure 3. Dust managers required at construction sites of 50 acres and greater
	MAG Measure 6. Better defined tarping requirements in Rule 310 to include enclosure of the bed
	MAG Measure 16. Require dust coordinators at earthmoving sites of 5-50 acres
	MAG Measure 43. Require barriers for construction where all activity has ceased
	MAG Measure 44. Reduce tolerance of trackout to 25 feet
	MAG Measure 45. No visible emissions across the property line
Maricopa County Measure 4	MAG Measure 4. Dedicated enforcement coordinator for unpaved roads, unpaved parking, and vacant lots
	MAG Measure 37. Strengthen and increase enforcement of Rule 310.01 for vacant lots
Maricopa County Measure 5	MAG Measure 5. Establish a certification program for dust free developments to serve as an industry standard
Maricopa County Measure 6	MAG Measure 7. Conduct mobile monitoring to measure PM ₁₀ and issue NOVs
Maricopa County Measure 7	MAG Measure 8. Conduct nighttime and weekend inspections
Maricopa County Measure 8	MAG Measure 9. Increase inspection frequency for permitted facilities
	MAG Measure 10. Increase number of proactive inspections in areas of highest PM ₁₀ emissions densities
	MAG Measure 55. Increase enforcement in the areas where PM ₁₀ violations continue to occur, along with efforts throughout the region.
Maricopa County	MAG Measure 11. Notify violators more rapidly to promote immediate

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Measure 9
Maricopa County
Measure 10
Maricopa County
Measure 11
Maricopa County
Measure 12

compliance

MAG Measure 12. Provide timely notification regarding high pollution days

MAG Measure 13. Develop a program for subcontractors

MAG Measure 14. Reduce dragout and trackout emissions from nonpermitted sources

MAG Measure 32. Pave or stabilize existing public dirt roads and alleys

MAG Measure 40. Ability to assess liens on parcels to cover the costs of stabilizing them

MAG Measure 45. No visible emissions across the property line

MAG Measure 18. Fully implement Rule 316

Maricopa County
Measure 13
Maricopa County
Measure 14
Maricopa County
Measure 15
Maricopa County
Measure 16
Maricopa County
Measure 17
Maricopa County
Measure 18
Maricopa County
Measure 19
Maricopa County
Measure 20
Maricopa County
Measure 21
Maricopa County
Measure 22

MAG Measure 21. Ban or discourage use of leaf blowers on high pollution advisory days

MAG Measure 25. Ban leaf blowers from blowing debris into streets

MAG Measure 29. Sweep streets with PM₁₀ certified street sweepers

MAG Measure 31. Pave or stabilize existing unpaved parking lots

MAG Measure 32. Pave or stabilize existing public dirt roads and alleys

MAG Measure 33. Limit speeds to 15 miles per hour on high traffic dirt roads

MAG Measure 35. Pave or stabilize unpaved shoulders

MAG Measure 36. Create a fund for paving and stabilizing in high pollution areas

MAG Measure 22. Reduce off-road vehicle use in areas with high off-road vehicle activity

MAG Measure 38. Restrict vehicular use and parking on vacant lots

MAG Measure 39. Enhanced enforcement of trespass ordinances and codes

MAG Measure 41. Increase fines for open burning

MAG Measure 42. Restrict use of outdoor fireplaces and pits and ambience fireplaces in the hospitality industry

MAG Measure 46. Modeling cumulative impacts

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Measure 24

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MEETING ADJOURNED

There being no further business to come before the Board, the meeting was adjourned.

Fulton Brock, Chairman of the Board

ATTEST:

Fran McCarroll, Clerk of the Board